

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

MARIA MERCEDES ALVAREZ

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -2057

Decision No. CU
1692

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by MARIA MERCEDES ALVAREZ in the amount of \$32,391.42, based upon the asserted loss of interests in realty and personalty located in Cuba.

Claimant stated that she derived her United States nationality through her parents.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

Section 502(1) of the Act defines the term "national of the United States" to mean "(A) a natural person who is a citizen of the United States." The term does not include aliens.

Thus, in order for the Commission to favorably consider claims under Section 503(a) of Title V of the Act, it must be established (1) that the subject property was owned in whole or in part by a national of the United States on the date of nationalization or other taking; and (2) that the claim arising as a result of such nationalization or other taking has been continuously owned thereafter in whole or in part by a national or nationals of the United States to the date of filing with the Commission.

Claimant states that she was naturalized on July 24, 1964 and that the property was taken on December 28, 1966 the date of her departure from Cuba. Evidence available to the Commission establishes, however, that the claimant has never been naturalized, but entered the United States in 1966 in possession of a Protection Passport issued by a foreign government. Claimant was informed of this evidence by Commission letter of February 20, 1968, and was invited to submit, within 10 days from the date thereof, any evidence to support her claim of United States citizenship. No evidence or response has been received to date from claimant.

Accordingly, even if it were to be assumed that claimant owned property in Cuba which had been taken by the Government of Cuba on or after the date asserted, it is clear that the property was not owned by a national of the United States on the date of loss, nor was the claim owned by a national of the United States continuously thereafter to the date of filing with the Commission.

Accordingly, the Commission concludes, on the basis of the evidence of record, that this claim is not valid under Title V of the Act for the reason that the property upon which this claim is based was not owned by a national of the United States on the date of nationalization or other taking and the claim continuously thereafter to the date of filing. Thus, the Commission is constrained to deny this claim and it is hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

APR 10 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

CERTIFICATION

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on 5-21-67

Francis Thacker

Clerk of the Commission

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)

CU-2057